

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

LANDS – Government lands – Visakhapatnam District – Visakhapatnam Rural Mandal – Certain government lands handed over to VUDA – VUDA sold the lands in bulk auctions for resource mobilization to State Budget – Demand raised by the I.T. Department on sale proceeds – I.T. Appellate Tribunal Order dated 9.11.2012 – Clarification to the effect that the sale proceeds derived from public auction of government lands conducted by VUDA have been utilized for Resource Mobilization to support to the State Budget and confirmation of sale proceeds credited to the Government account – Orders – Issued.

Revenue (Assignments.I) Department

G.O. Ms. No. 199

Dated 20.04.2013

Read the following :-

- (1) G.O. Ms. No.1401, Revenue (Assn.I) Department, dated 02.11.2007.
- (2) Letter Rc. No. 835/2012 E2 dated 7.1.2013 received from the District Collector – Visakhapatnam addressed to Special CS and CCLA copy marked to Government.
- (3) Government Memo. No.2760/Assn.I(2)/2013-1, dated 13.02.2013.
- (4) From the Special Chief Secretary and Chief Commissioner of Land Administration, AP Hyderabad Letter No. B3/97/2013, dated 06.03.2013.

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ORDER :-

The District Collector – Visakhapatnam in his letter 2nd read above has informed that during the period from 2005 to 2007 certain vacant government lands in and around the Visakhapatnam have been given advance possession to VUDA by the District Collector – Visakhapatnam.

2. The District Collector – Visakhapatnam has further informed that in the G.O 1st read above, Government have issued orders according permission to VUDA to go ahead with auction of lands already in its advance possession for mobilization of resources in support of state budget. In the para-5 of the said G.O. it was informed that the Empowered Committee headed by the CCLA after examining in detail the 2 proposals submitted by the District Collector – Visakhapatnam made recommendations in (two) categories viz.,

- (1) Government lands which are required to be sold by auction by the District Collector Visakhapatnam and remit the sale proceeds to government account towards resource mobilization;
- (2) Government lands to be alienated in favour of VUDA by the Government for development of townships for resource mobilization. The alienation proposals in favour of VUDA will be examined in consultation with the Chief Commissioner of Land Administration, Hyderabad separately.

3. In the said G.O. Ms. No.1401, Revenue (Assn.I) Department, dated 02.11.2007 Government have also accorded permission to the District Collector – Visakhapatnam to dispose the government lands in public auction through VUDA and remit the sale proceeds for Resource Mobilization in (10) parcels of land as indicated in para (6) of the said G.O.

contd.2.

4. The VUDA has auctioned the government lands and remitted the sale proceeds to a tune of Rs.1180.00 crore to the government during the period from 2007-2008 to 2009-10 under the head of account "4000-01-800-SH (05)" through District Treasury, Visakhapatnam and the same was acknowledged by the government in a meeting held on 08.04.2008 on "Resource Mobilization" stating that the VUDA has achieved 100% of target for the year 2007-08.

5. Whereas, the Income Tax Department have re-opened the I.T. Returns for the Assessment Years 2008-09 and 2009-10 and levied Income Tax for an amount of Rs.382.60 crore on VUDA, on sale proceeds of government lands. The Income Tax Department have issued provisional attachment order dt: 12.01.2012 for Rs.379.07 crore for the Assessment year 2008-09 and 2009-10. Aggrieved by which the VUDA approached the Hon'ble High Court and obtained Interim Stay Orders.

6. Further, as per the interim orders of the Income Tax Appellate Tribunal Bench Visakhapatnam, the VUDA has remitted Rs.77.48 crore for the Assessment Year 2008-09 towards 25% demand to the Income Tax Department. The Income Tax Department have also withdrawn funds of Rs.23.06 crore through attachment of funds relating to Assessment Year 2009-10.

7. The Hon'ble Income Tax Appellate Tribunal, Visakhapatnam Bench in its final order dated 09.11.2012 vide ITA No.76 & 77/2012 has felt that, the intention of the government in categorizing the government lands into two categories in G.O. Ms. No. 1401, dated 01.11.2007 is not clear. The I.T. Department is claiming that the amounts realized through the auction of category (ii) lands as mentioned in the said G.O. are meant for the resource of VUDA and hence such amounts are taxable. Accordingly the Income Tax Department has levied Income Tax on VUDA.

8. Whereas, the VUDA claims that auction of government lands falling under both category (i) and (ii) as mentioned in G.O. Ms. No. 1401, dated 01.11.2007 are meant for the Resource Mobilization of the State Budget and such sale proceeds have been deposited to the state Treasury as per the direction of the Government vide Letter No. 1347/61/A1-BG-1/2007, dated 27.6.2007 of the Finance (BG) Department. The VUDA has not utilized any amounts from such sale proceeds for any other purpose. However, the Income Tax Appellate Tribunal has felt that, the intention of using the words "Resource Mobilization" in their view is not clear.

9. The Income Tax Appellate Tribunal has, therefore directed the assessee to furnish the documents which bring out the intention of the government in categorization of the government lands in two categories and offer its explanation in that regard and directed the Assessing Officer to decide the issue in accordance with the law.

10. In the circumstances stated above, the VC-VUDA has requested the government to issue clarification duly clarifying that the intention of categorization of lands into two categories is only the 'development' aspect and the exercise of auctioning the government lands by VUDA is for resource mobilization to State Budget. The VC VUDA also requested to confirm that the sale proceeds realized on the sale of government lands by VUDA are the government receipts but not the income of VUDA and that the VUDA is only an agent of the government and all the above transactions were done with the concurrence of Finance Department and on behalf of the Government of Andhra Pradesh only.

11. With reference to the clarification sought for by the VC-VUDA, in the letter 4th read above, the Special CS and CCLA has requested the government to issue necessary clarification / appropriate orders in the matter.

contd.3.

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12. In the circumstances reported by the District Collector – Visakhapatnam, the VC-VUDA and as reported by the Special Chief Secretary and CCLA and after careful examination of the matter, Government hereby issue clarification that the sale proceeds derived from public auction of government lands conducted by VUDA in terms of both categories of lands as indicated in G.O. Ms. No.1401, Revenue (Assn.I) Department, dated 01.11.2007 have been utilized for Resource Mobilization to support the State Budget. The sale proceeds are government receipts, but not the income of VUDA and the VUDA has acted as an agent of government. It is also hereby confirm that the sale proceeds of the lands covered in the said G.O. have been credited to the government account.

13. This order issues with the concurrence of Finance (PC-III) Department vide their U.O. No.7291-A/55/A2/PC-III/2013, dated 06.04.2013.

14. The Collector – Visakhapatnam and the VC-VUDA, shall take necessary further action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B.R.MEENA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Special Chief Secretary and Chief Commissioner
of Land Administration, AP Hyderabad.
The District Collector – Visakhapatnam.
The vice Chairman – Visakhapatnam Urban Development Authority,
Visakhapatnam.
Copy to:
The Joint Commissioner – Income Tax (Range-I),
Visakhapatnam.
The Finance (PC.III) Department.
The M.A. & U.D. Department.
SF / SC

/ FORWARDED :: BY ORDER /

SECTION OFFICER